(3)

No. 84-1798

Office - Supreme Court, U.S.
FILED
JUN 24 1985
ALEXANDER L. STEVAS,
CLERK

IN THE

Supreme Court of the United States

APRIL TERM, 1985

FREDERICK L. COLLINS,
Petitioner

v.

ANNDEP STEAMSHIP CORPORATION

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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APPENDIX

NO. 84-1414

FREDERICK L. COLLINS

v. Appellant

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ANNDEP STEAMSHIP CORPORATION

03/29/85

SALLY MRVOS

Clerk

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(C. A. No. 82-5284)
(Honorable John P. Fullam)

Submitted Under Third Circuit Rule 12(6)
February 25, 1985

Before: ADAMS, WEIS and WISDOM,* Circuit Judges

* Hon. John Minor Wisdom, United States Court of Appeals for the Fifth Circuit, sitting by designation.

Certified as a true copy and issued in lieu of a formal mandate on March 29, 1985.
Test: (M. Elizabeth Ferguson)
Chief Deputy Clerk, U.S. Court of

Costs taxed in favor of appellee as follows:
Brief.....$140.00

JUDGEMENT ORDER

After considering the contentions raised by ppellant it is

ADJUDGED AND ORDERED that the judgement of the istrict c rt be and is hereby affirmed.

Costs taxed against appellant.

BY THE COURT,

(Judge Adams)

Circuit Judge

ATTEST:

(Sally Mrvos)

ATED: March 4, 1985 Sally Mrvos, Clerk

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

NO. 84-1414

FREDERICK L. COLLINS,

Appellant

v.

ANNDEP STEAMSHIP CORPORATION

(C.A. No. 82-5284)

SUR PETITION FOR REHEARING

IN BANC

Present: ALDISERT, Chief Judge, SEITZ, ADAMS, GIBBONS, HUNTER, WEIS, HIGGINBOTHAM, SLOVITER, BACKER, and WISDOM* Circuit Judges,

The petition for rehearing in banc filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active

service not having voted for rehearing by the Court in banc, the petition for rehearing in banc is denied.

BY THE COURT,

(Judge Adams)

DATED: March 21, 1985

(Circuit Judge)

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SALLY MRVOS

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREDERICK L. COLLINS : CIVIL ACTION

v. :

(Filed June 29, 1984)

ANNDEP STEAMSHIP CORPORATION : NO. 82-5284

MEMORANDUM AND ORDER

FULLAM, J. JUNE 29, 1984

Seaman's action for penalty wages. Plaintiff served as a member of the crew of defendant's vessel from December 25, 1981, until discharged on March 1, 1982. The discharge was occasioned by the fact that, while on shore leave in Panama, plaintiff was arrested by Panamanian authorities on drug charges, and thus failed to rejoin the vessel before its departure.

As of March 1, 1982, there was due and owing to plaintiff a total of $876 in wages. Plaintiff remained in jail in Panama until July 14, 1982. Upon his release, defendant's Panamanian agents arranged for overnight hotel accommodations and provided plaintiff with a one-way airplane ticket for his return to the West Coast of the United States, which occurred on July 15, 1982.

Upon being informed of plaintiff's release from

ENTERED: 06/29/84

custody, the defendant's New York office sent a check for the balance of plaintiff's wages to the permanent address listed on company records (the residence of plaintiff's mother, in Florida). The payment was made on or about July 23, 1982, and was received by plaintiff in due course shortly thereafter. The issue in this case is whether it was permissible for the defendant to deduct from the wages due the cost of the airline ticket for plaintiff's repatriation, viz, the sum of $648.90.

Plaintiff testified that, upon his release from police custody, he requested payment in full of his back wages, with a view toward joining some other vessel in Panama, but was told by defendant's Panamanian agent that he would be paid when he returned to the United States, that a company representative would meet his plane in Los Angeles to settle the matter, and that his only option was to accept the arrangement for immediate return to the United States by air. At no time, according to the plaintiff, did he agree to bear the cost of the return trip, or authorize its deduction from his back wages.

Even assuming that plaintiff's recollection of these events is entirely correct, I am satisfied that the company acted properly in repatriating the plain-

trip. As between plaintiff and the defendant, the defendant had no obligation to bear the cost of plaintiff's repatriation. Moreover, the evidence makes it quite clear that the defendant had been advised by its Panamanian agents that, under Panamanian law, the defendant was required to see to it that plaintiff left the country promptly. In my view, the defendant acted reasonably in arranging for plaintiff's immediate return to the United States, and made prompt payment to the plaintiff of all sums to which he was legally entitled.

Moreover, I am not persuaded that plaintiff actually did object, at the time, to the arrangements made by the defendant. On this record, it is undisputed that plaintiff purchased a quantity of marijuana and was arrested by Panamanian police while in possession of the contraband. He was confined to Panamanian jails for four months, during which, according to plaintiff, he was subjected to rather harsh treatment. The record of his criminal trial makes clear that plaintiff's ultimate release was obtained only because his Panamanian attorney was able to convince the court that possession of marijuana was perfectly legal in plaintiff's state of residence, and that plaintiff had no idea he was violating Panamanian

would have preferred to remain in Panama seeking employment on another vessel, rather than immediately return to freedom in the United States.

For all of these reasons, judgement will be entered in favor of the defendant.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREDERICK L. COLLINS	:	CIVIL ACTION
v.	:	
ANNDEP STEAMSHIP CORPORATION	:	NO. 82-5284

ORDER

AND NOW, this 29th day of June, 1984, it is ORDERED that judgement is entered in favor of the defendant.

John P. Fullam

J.